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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|-------------|----------------------|---------------------|-------------------------|
| 10/619,680 | 07/15/2003 | Todd R. Stager | 3053M-Div-1 | 7073 |
| 7590 | 06/14/2005 | | | EXAMINER |
| S. Michael Bender P.O. Box 530-399 St. Petersburg, FL 33747 | | | | WIEKER, AMANDA FLYNN |
| | | | ART UNIT | PAPER NUMBER |
| | | | | 3743 |
| | | | | DATE MAILED: 06/14/2005 |

Please find below and/or attached an Office communication concerning this application or proceeding.

| | | | |
|------------------------------|------------------------|---------------------|--|
| Office Action Summary | Application No. | Applicant(s) | |
| | 10/619,680 | STAGER, TODD R. | |
| | Examiner | Art Unit | |
| | Amanda F. Wieker | 3743 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM
 THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 6/3/05.
- 2a) This action is FINAL. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 5-16 is/are pending in the application.
- 4a) Of the above claim(s) 7,11,12 and 14-16 is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 5,6,8-10 and 13 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 15 July 2003 is/are: a) accepted or b) objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) All
 - b) Some *
 - c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____ | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Election/Restrictions

1. Claims 7, 11-12 and 14-16 remain withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected Species, there being no allowable generic or linking claim. Election was made without traverse in the election made on 23 November 2004.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

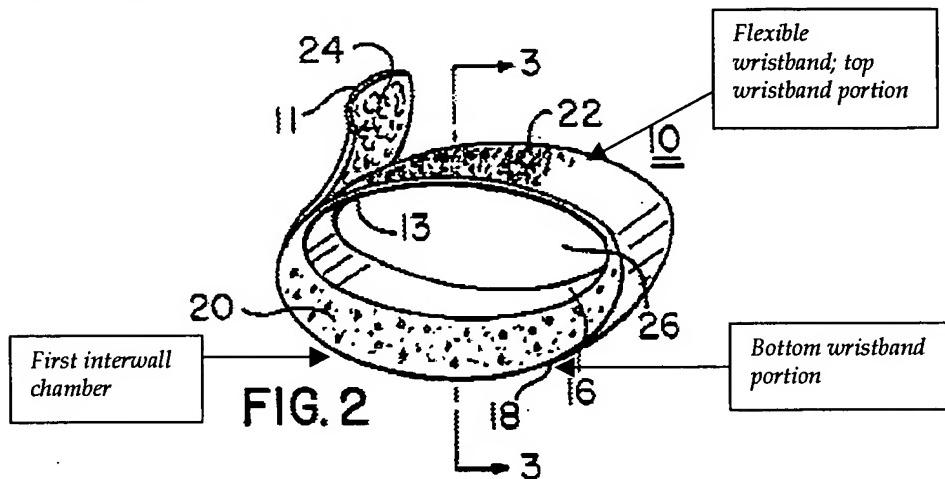
3. Claims 5, 8-10 and 13 are rejected under 35 U.S.C. 102(e) as being anticipated by U.S.

Patent Application Number 2003/0014002 to Quintana.

Quintana discloses a wristpad apparatus, comprising: an inner wall (16), an outer wall (18), wherein a portion of said inner wall and said outer wall provide a flexible wristband (see below), and wherein a portion of said inner wall and said outer wall define a first interwall chamber (see below), and a quantity of flexible filler material (20) is contained in said first interwall chamber providing a flexible pillow. The wristband includes: a first wristband strap portion (11) which includes a first strap connector (24), and a second wristband strap portion (13) which includes a complimentary second strap connector (22). The first strap connector (24) is made from a quantity of first hook-or-loop material (VELCRO®), and said second strap

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connector (22) is made from a quantity of complimentary second hook-or-loop material (VELCRO®). Regarding claim 10, the wrist pad apparatus comprises: a flexible wristband which includes a top wristband portion and a bottom wristband portion (see below), a flexible pillow (22) connected to said bottom wristband portion, wherein said flexible pillow includes a flexible pillow housing (inner and outer walls 16 and 18) and provides wrist elevation adjustment means (see paragraph 0027).



Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over Quintana in view of U.S. Patent Number 6,517,507 to Faherty.

Quintana discloses the previously described wristpad apparatus comprising an inner wall (16) and an outer wall (18), wherein a portion of the inner and outer walls define an

interwall chamber which contains a quantity of flexible material. Quintana does not specify that the inner and outer walls are comprised of a knitted fabric.

Faherty discloses a wristpad apparatus comprising an inner and outer wall made of a flexible, elastic (including SPANDEX®), knitted fabric to allow a proper and accurate fit of the wristpad on the wrist.

It would have been obvious to one skilled in the art at the time the invention was made to have provided the wristpad apparatus disclosed by Quintana, wherein the inner and outer walls comprise a flexible, elastic, knitted fabric, as taught by Faherty, to allow a proper and accurate fit of the wristpad on the wrist.

Response to Arguments

6. Applicant's arguments filed on 03 June 2005 have been fully considered but they are not persuasive.

Applicant's sole argument is directed to the priority date of the Quintana reference. Applicant argues that the examiner cannot rely on the filing date of the parent application to the Quintana reference because the Quintana reference is a Continuation-In-Part of the parent, abandoned application, and the examiner has made no showing that the subject matter of the Quintana reference is supported by the abandoned parent application.

Accompanying this rejection is a copy of the parent, abandoned application to the Quintana reference. Careful study of this application will clearly show that the subject matter of the Quintana reference is fully supported by its parent application. Therefore, the Quintana reference is available as prior art.

Conclusion

7. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Amanda F. Wieker whose telephone number is 571-272-4794. The examiner can normally be reached on Monday-Thursday, 8:30 - 6:00 and alternate Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Henry Bennett can be reached on 571-272-4791. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR)-system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Amanda F. Wieker
Examiner
Art Unit 3743

AW
afw

HB
Henry Bennett
Supervisory Patent Examiner
Group 3700